UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

MEMORANDUM

SUBJECT: Asbestos; Draft Toxic Substances Control Act (TSCA) Risk Evaluation and TSCA Science Advisory Committee on Chemicals (SACC) Meeting; Notice of Availability, Public Meetings, and Request for Comment
[FRL-10006-93]
– ACTION MEMORANDUM

FROM: Alexandra Dapolito Dunn
Assistant Administrator

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Date: 2020.03.26 12:11:53 -04'00'

TO: Andrew R. Wheeler
Administrator

PURPOSE

Attached for your signature is a **Federal Register** notice that announces the availability of documents for public comment and peer review, and the dates of the peer review meetings for the draft risk evaluation for asbestos, which was prepared under the Toxic Substances Control Act (TSCA). Asbestos is the ninth of the first ten chemicals identified for risk evaluation under TSCA. The TSCA Science Advisory Committee on Chemicals (SACC) meeting is scheduled to meet virtually on April 27-30, 2020.

DEADLINE

There is no legal deadline for the draft risk evaluation, but the statute requires the final risk evaluation by June 19, 2020 and timing for this is sensitive. Although the public will be given 60 days to comment, those comments received by April 22, 2020 will be provided to the SACC before the peer review meeting. Comments received after April 22, 2020, and prior to oral public comments at the meeting, will be made available to the SACC during the meeting. All comments received by the end of the comment period will be considered by EPA.

OVERVIEW

Authority

TSCA section 6(b) requires that EPA conduct risk evaluations on existing chemicals and identifies the minimum components EPA must include in all chemical substance risk evaluations. 15 U.S.C. 2605(b). In conducting risk evaluations, EPA must not consider costs or other nonrisk factors. 15 U.S.C. 2605(b)(4)(F)(iii).

The specific risk evaluation process is set out in 40 CFR part 702 and summarized on EPA's website at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluations-existing-chemicals-under-tsca*. As explained in the preamble to EPA's final rule on *Procedures for Chemical Risk Evaluation* (82 FR 33726, July 20, 2017) (FRL-9964-38), the specific

regulatory process set out in 40 CFR part 702, subpart B will be followed for the first ten chemical substances undergoing risk evaluation to the maximum extent practicable.

Background

Although there are several known types of asbestos, the only form of asbestos known to be imported, processed, or distributed for use in the United States at the posting of the draft risk evaluation is chrysotile. Raw chrysotile asbestos currently imported into the U.S. is used exclusively by the chlor-alkali industry. Based on 2019 data, the total amount of raw asbestos imported into the U.S. was 750 metric tons. EPA has also identified the importation of asbestos-containing products; however, the import volumes of those products are not fully known. The asbestos-containing products that EPA has identified as being imported and used are sheet gaskets, brake blocks, aftermarket automotive brakes/linings, other vehicle friction products, and other gaskets.

EPA evaluated the following categories of conditions of use of chrysotile asbestos in this draft risk evaluation: manufacturing; processing; distribution in commerce; occupational and consumer uses; and disposal. EPA continues to review the recent court decision in *Safer Chemicals Healthy Families v. EPA*, Nos. 17-72260 et al. (9th Cir. 2019), and this draft risk evaluation does not reflect consideration of any legacy uses and associated disposal for chrysotile asbestos or other asbestos fiber types as a result of that decision. EPA is still seeking public comment on and peer review of this version, however. EPA intends to consider legacy uses and associated disposal in a supplemental scope document and supplemental risk evaluation.

Information about the problem formulation and scope phases of the TSCA risk evaluation for this chemical is available at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-evaluation-asbestos-0*.

ANTICIPATED PUBLIC AND STAKEHOLDER RESPONSE

OCSPP is working closely with the Office of Public Affairs on the release of another TSCA draft risk evaluation. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

INTERNAL DEVELOPMENT AND REVIEW PROCESS

The attached **Federal Register** document was prepared with input and review from the Office of General Counsel. The draft risk evaluation was developed by the Office of Pollution Prevention and Toxics, with input and review from the Office of Air and Radiation, Office of Children's Health Protection, Office of General Counsel, Office of Land and Emergency Management, Office of Research and Development, Office of Water, and Office of Policy.

INTERAGENCY REVIEW

The draft risk evaluation has gone through an interagency review process established for the TSCA risk evaluations and comments have been addressed.

IMPACTS

Potentially Affected Entities

The notice is directed to the public in general and may be of interest to entities that currently or may manufacture (including import) a chemical substance regulated under TSCA (e.g., entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110).

Potential Economic Impacts

This document does not establish any requirements on persons or entities and EPA did not estimate potential incremental impacts for this action.

Environmental Justice Considerations

EPA considers the potential risks to potentially exposed or susceptible subpopulations and finds unreasonable risk in the draft risk evaluation.

Children's Environmental Health

The draft risk evaluation considers the potential risks to children's health in both consumer and bystander use scenarios. Unreasonable risk was found for certain conditions of use of asbestos. The potential risks to children based on risks to the general population were not considered as EPA determined that other statutes adequately assess and effectively manage the risk to the general population.

STAKEHOLDER INVOLVEMENT

Stakeholder involvement is an integral component of the TSCA risk evaluation process, which begins with engaging stakeholders in the scope phase of the process. This **Federal Register** notice opens the comment period for the draft risk evaluation, which is intended to better inform the final risk evaluation for this chemical.

PEER REVIEW

This notice announces the formal peer review for this draft risk evaluation.

RECOMMENDATION

I recommend that you sign the attached **Federal Register** notice.

Attachment